Further, the Commission should reject the IXCs' demands for an immediate flash-cut elimination of the TIC, since it would jeopardize the ILECs' ability to provide affordable basic exchange services. However, a straight-line phase-out of the TIC may be appropriate if it is over a period of time that is long enough (five years) to permit ILECs and the states to manage the loss of this subsidy source. In that regard, it is essential that, during that phase-out, ILECs have the ability to target all price cap reductions to the TIC and that the Commission implement its market-based approach (with modifications suggested by Ameritech) so that ILECs have the appropriate flexibility to adjust rates. These changes will give ILECs the ability to manage the TIC revenue loss while the states begin and conclude proceedings that allow LECs to recover the intrastate portion of the loop and port cost directly from end users or state specific universal service mechanisms.

In total, Ameritech's TIC proposal includes the following:

(1) Reassign SS7 and tandem related costs to the appropriate rate elements.

(2) Change the method of billing the TIC from an assessment on local switching minutes to a competitively neutral mechanism based on a carrier's share of interstate retail revenues in the state or region.[35]

(3) Phase-out the TIC in equal increments over five years only if
- the market-based approach for access reform is adopted, and
- mandatory price cap reductions may be targeted to the TIC.

[35] See Attachment C for an example of how the TIC may be assessed.

(4) States should begin and conclude proceedings that allow ILECs to recover the intrastate portion of the loop and line port costs from end users rates or state universal service funding mechanisms currently being partially subsidized by TIC revenues.

E. The SS7 Signaling Rate Structure Should Be Sufficiently Flexible.

The Commission specifically seeks comment on whether and how to revise the rate structure for SS7 services.[36] Ameritech believes the structure should be based on the manner in which the underlying costs are incurred. However, the structure that is appropriate for Ameritech might not necessarily be appropriate for the rest of the industry. In that light, ILECs should be permitted but not required to adopt a rate structure along the lines described below.

Like dedicated transport, the dedicated network access line ("DNAL") connecting a carrier to an SS7 signaling network and the associated STP port termination both involve NTS costs. Therefore, ILECs should be allowed to charge for them on a flat-rate basis.

For those elements which might be charged appropriately on a usage-sensitive basis, (signal formulation, signal switching, signal transport, and signal tandem switching), Ameritech believes it would be inappropriate for the Commission to mandate a per query charge, or for that matter any other specified structure. There should be enough flexibility so that each ILEC has the ability to

[36] NPRM at ¶¶ 123-138.

recover signaling usage costs in a manner that is consistent with the way in which they are incurred.[37]

The Commission also suggests permitting LECs to assess charges for signal transport on a distance-sensitive basis.[38] While Ameritech does not want to preclude other LECs from developing their rates on such a structure, there should be no requirement to bill for signal transport on a distance-sensitive basis, since, at least in the case of Ameritech, the costs of measuring the distance for each individual A-Link may be more than the cost of providing the actual transport. Ameritech reiterates the need for enough flexibility to permit each individual carrier to recover its costs on a basis applicable to its individual situation.

In addition to the manner in which the SS7-related rates should be recovered, the Commission also asks parties to discuss which price cap baskets these rate elements should be placed in.[39] Until all access services are placed in one basket, all SS7-related rate elements belong in the trunking basket since signaling is most closely related to transport. As to specific elements, the STP port termination should remain in the trunking basket along with the DNAL.

---

[37] In that regard, the evolution of AIN in particular may ultimately render Ameritech's current per message rate structure obsolete given the significant variance in per signaling message length for AIN service.

[38] NPRM at ¶ 131.

[39] Id. at ¶¶ 128-134.

Contrary to the Commission's concern that ILECs would increase STP port charges to offset price reductions for the signal link, such increases would only encourage customers to find other means of interconnecting with the ILEC's network -- e.g., via hub providers. Therefore, the Commission's concern is unfounded.

### F. The Commission Should Not Base Rate Structure on Specific New Technologies.

The Commission has asked whether it should take new technology into account in adopting access charge rules.[40] The Commission should not focus on specific technologies as it addresses access charge reform. As demonstrated by the evolution of enhanced services, the growth of wireline and wireless data services, and the explosive growth of the Internet, technology will consistently outpace policy. To the extent that there are prescribed rate structures, they should be based on the nature of the service rather than on the specific technology used to provide it. In other words, a rate structure should be modified in the face of new technology only when it can be demonstrated that it has significantly changed the way in which costs are incurred. In general, new technologies will support new services and should not carry Commission-imposed rate structures.

[40] Id. at ¶ 139.

### G. Sufficient Time Must Be Allowed for Implementation.

If the Commission does adpot any rate structure changes, including Ameritech's proposed LPR charge and TIC transition mechanism, it must allow enough time for ILECs to modify their ordering and billing systems and for access customers to modify their ordering and billing reconciliation systems. In this case, Ameritech estimates that no less than nine months lead time is necessary to for both access providers and access customers to smoothly implement a significantly modified rate structure.[41]

## III. SERVICES SHOULD BE DEREGULATED IN THE PRESENCE OF SUBSTANTIAL COMPETITION OR WHERE ILECs ARE UNABLE TO CONTROL PRICES.

Regardless of whether the market-based approach or the prescriptive approach is used for the transition, the Commission has inquired as to whether ultimate removal of a service from price cap and tariff regulation is appropriate where there is substantial competition for that service or where the LEC cannot influence price movements.[42] The answer, of course, is "Yes." Continued rate regulation in those circumstance is not only unnecessary, it is contrary to the pro-competitive and deregulatory policies espoused in the Act. It is also costly. Certainly, both cost of service regulation (the Commission's "prescriptive

[41] In the Transport Restructuring Order (at ¶ 6), the Commission allowed a full year for implementation.

[42] NPRM at ¶¶ 149,152.

approach") and price cap regulation[43] are in-efficient and will thereby send incorrect price signals to potential entrants and preclude customers from realizing the benefits of price competition.

In any case in which competition is substantial or in which ILECs cannot influence price movements (i.e., lack market power), continued regulation of ILEC prices is not only unnecessary but potentially harmful. Where ILEC prices are too low, entry by efficient competitors is discouraged and inefficient use is encouraged. Where ILEC prices are kept too high, entry by inefficient competitors is encouraged and customers pay too much. Instead, the market should be permitted to govern prices.

The analytical framework used by the Commission in assessing interexchange competition[44] is largely -- though not entirely -- appropriate in the access services marketplace. Specifically, access competition is evaluated most accurately by reference to supply and demand elasticities[45] -- two factors upon which the Commission principally relied in assessing interexchange competition. On the other hand, the secondary factors in the Commission's interexchange analysis -- market share and pricing trends[46] -- are not reliable measures of

[43] Id. at § VI.

[44] Id. at ¶ 150.

[45] Id. at ¶¶ 156-157.

[46] Id. at ¶158-159.

competition for ILEC services and should not be essential components of any competitive test.

Demand Responsiveness. High demand responsiveness, coupled with high supply responsiveness, constrains the ability of a firm to price anti-competitively. If a sufficient number of customers are aware and willing to consider alternative suppliers of access services, then those suppliers can accommodate those customers and no one supplier will be able to exercise market power.

In its analysis of interexchange services, the Commission found that large business customers exercise "buying power" by soliciting competitive bids and dividing their traffic among two or more interexchange carriers and that they are willing to switch carriers to obtain price savings and desired features. These conclusions apply with even more force in the case of ILEC access services. ILEC access customers (primarily IXCs), being telecommunications service providers themselves (or in some cases the very largest end-users), represent the epitome of sophisticated telecommunications purchasers. To a great extent, they are aware of their service options and are in a position to leverage their buying power to obtain the best deal possible. They are also more than willing to avail themselves of competitive alternatives, which may be CAP facilities, ILEC unbundled network elements, or their own facilities that enable them to "self-provision" their own access.

Moreover, access services are fungible, even more so than consumer services offered by IXCs. In the eyes of the access customer, there is essentially no technical difference between DS1 facilities offered by the ILEC and DS1 facilities offered by a CAP or, in the post-Act environment, unbundled DS1 transport offered by the ILEC itself. For switched access, again after the Act, an IXC has incentives to increase its profits by becoming a CLEC and capturing the end user and providing service via unbundled loops, ports and switching.

The only issue, therefore, that the Commission need address in considering whether buyers of a particular access services are demand-elastic is whether those buyers, in fact, have a functionally equivalent alternative available. If such an alternative is available, access customers will be aware of that alternative and they will chose it if it is a better deal. Consequently, in considering requests to deregulate access services, the Commission should hold that demand-elasticities are presumptively high.

Supply Responsiveness. The Act and the Commission's rules, by requiring ILECs to offer unbundled connections between customer premises and wire centers and between two wire centers, have introduced the potential for arbitrage of special access and dedicated switched transport local distribution channels/entrance facilities, inter-office mileage, and tandem-switched transport services. In addition, the Commission has ruled that, if an IXC also provides local exchange service to an end user, it can use ILEC-provided unbundled local switching in providing exchange access to itself or another IXC. Thus, in addition to access services provided directly to IXCs by CAPs and CLECs; unbundled elements provided by ILECs themselves represent a competitive alternative to existing access services.

Certainly with the availability of unbundled network elements, the Commission can be confident that entry barriers for the competitive provision of access services are low. As additional corroboration that these measures are having their intended effect and that actual competition exists, the Commission could condition any finding of high supply elasticity on additional proof that at least one CAP or CLEC is providing services in the relevant market. This additional showing will confirm the supply responsiveness in the market in question.

Market Share. While evidence of a declining market share may indicate a lack of market power, a high market share does not necessarily indicate the existence of market power. Accordingly, while the Commission should consider a declining market share as corroboration of a competitive showing, the Commission should not otherwise consider market share in connection with deregulation requests.

While the Commission has acknowledged that market share data may be an unreliable measure of interexchange competition,[47] it can be an even less reliable

[47] NPRM at ¶ 158.

measure of access services competition. Unlike the long-distance market, which is populated by millions of customers, no one of which singularly accounts for a significant share of all long-distance business, the access marketplace includes three IXC/access purchasers who, together, account for the vast majority of all access traffic. Indeed, these three carriers represent 90% of Ameritech's access traffic and 85% of its access revenues. If even one of those customers decided to move a significant portion of its traffic from an ILEC to another provider of access services (including, potentially itself), ILEC access market share could decline precipitously.[48] Thus, unlike the interexchange marketplace where changes in market share occur incrementally, market share can change quickly and dramatically in the access service market. This makes market share a particularly unreliable measure of access service competition. For example, just because an ILEC has successfully won the business of its largest customers, thereby retaining a high market share, does not mean that the ILEC does not face substantial competitive pressures. On the contrary, because each purchaser of access accounts for so much business, ILECs must compete vigorously.

Accordingly, the Commission should hold that, while a low or declining market share may reinforce a competitive showing, a high market share or the absence of market share losses is not inconsistent with a competitive market,

[48] Each one of these three carriers has an interconnection agreement with Ameritech resulting from arbitration under § 252 of the Act which provides it with everything it needs to compete for both local exchange and exchange access business.

particularly if the Commission finds there to be high supply and demand elasticities in that market.

Pricing Below the Cap. Ameritech partially agrees with the Commission's speculation that pricing relative to the price cap limits is not a fool-proof indicator of the presence or absence of competitive pressure.[49] In particular, Ameritech agrees that pricing at the cap is not necessarily indicative of a lack of competition, but may only reflect that the cap is close to the LEC's cost. On the other hand, Ameritech disagrees with the Commission's conclusion that pricing below the cap is not indicative of high supply and demand elasticities. In particular Ameritech disagrees that a LEC may simply be pricing below the cap "strategically in order to be relieved of regulation."[50] In order for that to be true, the LEC would have to believe that, once freed of regulation, it could raise rates enough to recover the amounts foregone, including the time value of money, plus additional amounts as monopoly profits. In this environment of cost-based substitutes and low entry barriers, this simply will not happen.

In addition, the Commission has specifically inquired whether high capacity ("HiCap") special access services (DS1 and higher speed) should be removed immediately from price cap regulation.[51] Again the answer, in the case of

[49] NPRM at ¶ 159.

[50] Id.

[51] Id. at ¶ 153.

Ameritech, is "Yes" -- not only for special access services, but also for their functionally equivalent switched transport counterparts. In general, services should be declared competitive and removed from price caps when equivalent unbundled elements are being purchased or other direct competition exists in significant amounts so that ILECs cannot control prices. Unbundled transport is a direct substitute for access transport services -- including special access. Market forces and the availability of unbundled elements at cost-based rates will drive prices down over time.

In Ameritech service areas, the provision of high capacity transport services by competitors has been developing rapidly. As shown by the attached study from Quality Strategies:[52]

- CAPs have significant market presence, especially in Chicago, but also in Cleveland, Columbus, Detroit, Grand Rapids, Indianapolis, and Milwaukee.[53]
- CAPs have made significant investment in fiber. For example, TCG has laid 43,000 fiber miles in Illinois and 19,000 in Michigan to carry existing and future traffic.[54]
- There is an average of 4 competitive providers, including Ameritech, in each metropolitan area; six in Cleveland.[55]
- Non-traditional HiCap providers are entering the market.[56]

---

[52] "Summary Analysis of Access Providers", Quality Strategies, January 29, 1997, ("Quality Strategies") included as Attachment D.

[53] Id. at 5-6.

[54] Id. at 10.

[55] Id. at 5.

[56] Id. at 8.

- Customers do not hesitate to use the HiCap services of the CAPs and seem satisfied with the service.[57]

- Virtually all of the CAPs active in the region have announced significant expansion plans.[58]

The technical requirements needed to enter the HiCap business are not onerous. Many firms have excess fiber optic transport capacity and are willing to lease the capacity to CLECs and IXCs. Brooks Fiber, Jones Intercable, MFS, and TCG all have agreements with AT&T to provide transport, access, and loops. Utilities such as American Electric Power are forming telecommunications subsidies to offer HiCap services (among others).[59] Accordingly, the elasticity of supply of HiCap services is quite high. Finally, customer perception of the alternatives is positive,[60] providing evidence of high demand elasticity as well. Because barriers to competitive entry for these services do not exist and because there is substantial competition in Ameritech's case, these services should be deregulated.

Similarly, directory assistance (as an access related service currently provided to IXCs under federal tariff) should also be deregulated because this is now a highly competitive service. Directory assistance is now available to IXCs on a competitive basis from many different companies. For example, independent

[57] Id. at 11.

[58] Id. at 12-16.

[59] Id. at 8.

[60] Id. at 11.

firms (e.g., Excell and Metro One Telecommunications) provide directory assistance services at the wholesale and retail level to wireless and wireline telecommunications service providers and to business and residential customers as well. GTE and Ameritech continue to compete in the provision of directory assistance service to IXCs, and 30% of Ameritech's former directory assistance business has already moved to GTE.

Finally, notably absent from the NPRM is any discussion of interexchange services currently offered by the BOCs.[61] This of course, is a much narrower question than the one involved in the BOC provision of in-region interLATA services. These interexchange services have historically involved the provision of intraLATA, interstate services where a LATA crosses a state line (e.g., Chicago, IL/Gary, IN) or interLATA, interstate "corridor" services in narrow instances in which MFJ waivers were obtained after divestiture (e.g., New York, NY/Northern New Jersey). In both cases, BOCs have faced substantial competition from established IXCs. While an argument could be made for an earlier trigger, certainly those services should be deregulated no later than the time 1+ presubscription (toll dialing parity) is available to IXCs for that traffic. At such time, no credible argument exists that the BOCs have any market power with respect to those interexchange services.

[61] Except for the references in note 211 and ¶ 216..

## IV. THE MARKET-BASED APPROACH IS THE APPROPRIATE TRANSITION MECHANISM.

In perhaps the most important section of the NPRM, the Commission seeks comment on a regulatory model that would rely on marketplace forces to move access prices to economically efficient levels. In that model, the Commission would act simply as the overseer charged with monitoring the development of competition and removing regulatory requirements that inhibit market forces.[62] This is clearly the approach that provides the most societal benefit for the least societal cost. As Dr. Gordon notes, where market forces are now in operation, they should be relied on to achieve efficient access prices.[63] Otherwise distortions are created that may prevent the most efficient firm from serving customers at the least possible cost.[64]

In order to accomplish this goal, the Commission has partitioned the transition to a fully competitive environment into two phases. Each phase contains conditions or triggers that must be met in order to obtain specific regulatory freedoms. Phase 1 is described as a time of potential competition. Phase 2 is defined by the establishment of an actual competitive presence. Additionally, the model implicitly includes the end point of the elimination of

[62] NPRM at §V.

[63] Gordon Paper at 21.

[64] Id. at 28.

price cap and tariff regulation for any service for which there exists which involves "substantial competition" or the ILEC's inability to control prices.[65]

As discussed by Dr. Gordon,[66] the Commission's market-based approach is conservative both in its proposed triggers and regulatory relief. Regulation must prevent the ILECs from exercising market power but also must work to regulate both the incumbent and new entrants as symmetrically as possible. As described in the NPRM, Phase 2 of the market-based approach would still require substantial regulatory oversight of the ILECs' access services, including price caps, and tariffing requirements, even when "actual" competition is present. However, Ameritech recognizes that the Commission is concerned about the development of local competition and wants to gradually relax access regulations to ensure that access competition is fostered. With this in mind, Ameritech is willing to accept the two-phase approach with some modifications to the triggers and the relief.

---

[65] See § III, supra.

[66] Gordon Paper at 30.

## A. Phase 1: Potential Competition -- the Removal of Any Remaining Barriers to Competitive Entry.

### 1. Implementation of the First Four Triggers is Sufficient.

The Commission has proposed a number of conditions, or triggers, for Phase 1 of its market-based approach.[67] Although not all are necessary, taken together these conditions are more than sufficient to eliminate all barriers to competition by reducing the costs of entry and ensuring that new entrants have a viable opportunity to compete once they are in the market. For example, the availability of cost-based unbundled network elements and retail services at wholesale rates obviate the need for a local exchange competitor to replicate an ILEC's network in order to enter the marketplace. That competitor can simply connect its switching equipment with the ILEC's loops or simply purchase local service at wholesale rates. In this manner, competitors can enter the marketplace quickly and cheaply, with virtually no capital investment of their own. The availability of end office integration and reciprocal compensation arrangements enables competitors to jointly exchange traffic with the ILEC's network.[68] And, the availability of operational support systems that facilitate the purchase and provisioning of unbundled network elements and wholesale services enable competitors to "get" what they need in order to compete.

---

[67] NPRM at ¶¶ 170-176.

[68] While Ameritech agrees that the availability of unbundled network elements and local termination of traffic agreements are appropriate primary triggers for achieving Phase 1 freedoms, state-approved cost standards should apply.

Ameritech believes that the appropriate triggers for Phase 1 relief are:

(1) Unbundled network elements are available either under a state-approved negotiated or arbitrated agreement and/or a state-approved statement of generally available terms and conditions.

(2) Transport and termination is available for local traffic at state approved cost-based rates.

(3) Retail services are available at wholesale rates that are equal to the retail price minus the reasonably avoidable cost of providing wholesale rather than retail service (determined by the state).

(4) Based on forecasts supplied by carriers, the ILEC is able to provide the services in 1-3 above in a commercially reasonable manner and in necessary quantities.

With respect to the last condition, the Commission should require that CLECs provide the ILEC with forecasts of services and quantities they anticipate purchasing. Without forecasts, the ILEC will not be able to properly size its systems and service centers to accommodate the CLEC demand.

The other four conditions that the Commission suggests will in fact enhance the development of local competition but are not relevant to access competition.[69] However, the triggers described above are sufficient to ensure that competition for interstate access services is facilitated and should be the only required triggers for Phase 1 relief.

[69] The Commission (at ¶ 176) has proposed "dialing parity" as a trigger. It should be clear that it is "local" dialing parity. The Act does not mandate toll dialing parity for BOCs until the carrier is permitted to provide in-region interLATA services, except as provided in § 271 (e)(2)(B) of the Act.

2. The Commission's Regulatory Reforms Are Appropriate With the Addition of Growth Discounts and a No-Sharing X-Factor Change.

The Commission proposes that the following regulatory reforms take place when the Phase 1 triggers are met: geographic deaveraging, volume and term discounts, contract tariffs and individual RFP responses, and deregulating new services. Ameritech agrees that these changes are necessary and appropriate and proposes two additional reforms that should be granted in Phase 1: growth discounts and a modification of the price cap no-sharing "X" factor.

Geographic Deaveraging. ILECs should have the ability to geographically deaverage their prices for all access charge elements once the triggers for Phase 1 have been met.[70] As noted in the Commission's Expanded Interconnection Order, competitors entering the interstate access marketplace have generally targeted areas where the economic cost of providing service is well below the ILEC's averaged rates. ILECs already have the ability to geographically deaverage high speed transport services when certain expanded interconnection requirements are met. And most ILECs have utilized this pricing flexibility for these services.

In addition, because of the ease of entry for competitive local exchange carriers ("CLECs"), geographic deaveraging should be available for the SLC so as

[70] Gordon Paper at 35.

to permit the ILEC to engage in reasonable total price competition for local exchange service.[71]

Furthermore, the Commission should not assume that the zones currently applicable to LEC transport access pricing are appropriate in all cases. The Commission should consider a number of factors, including the specific service, costs and specific market conditions in evaluating ILECs' geographic pricing zones.

Volume and Term Discounts. As the Commission recognizes volume and term discount flexibility (which is common in the industry and has become accepted from both the provider and the customer view) is appropriate for ILECs that have satisfied Phase 1 conditions.[72] The Commission long ago granted such flexibility for special access and dedicated switched transport where expanded interconnection arrangements have been implemented. There is literally no good reason not to permit the ILEC similar flexibility for other access services in Phase 1.

Contract Tariffs/Requests for Proposal. It is clearly appropriate to offer individual negotiated contract tariffs and individual request for proposal ("RFP") response tariffs in Phase 1.[73] The ability to offer services in a manner which more

[71] See Ameritech's December 6 Letter and Gordon Paper at 19.

[72] NPRM at ¶ 191.

[73] Id. at ¶¶ 195-196, Gordon Paper at 36.

closely matches customer needs will promote greater efficiency both in pricing and in network utilization. The requirement that negotiated contract tariffs must be made generally available to similarly-situated customers on the same terms and conditions is a sufficient check against any possibility of abuse until Phase 2 is achieved.

Deregulating New Services. In Phase 1, significant market conditions indicate the existence of competitive pressure. In this environment, the Commission can permit ILECs to quickly respond to customer demands for new services. If artificial barriers exist to an ILEC's ability to respond quickly, entry by inefficient niche providers will be encouraged. If a new service is an optional one that only increases customers' options, the ILEC will have no undue market power.[74] If the ILEC introduces the service, it will do so because it wants customers to purchase it. The fact that customers are currently "doing without" the service is an essential factor in determining where to set the price. The LEC will have every incentive not to set the price higher than the value of the service. In this light, the Commission can safely deregulate these new services and eliminate all regulatory barriers to their introduction in Phase 1.

Growth Discounts. Growth discounts are another type of alternative pricing plan that should be permitted in Phase 1. Specifically, these alternative plans are pricing mechanisms that can be of significant benefit to smaller access

[74] Gordon Paper at 36-37.

customers who have no immediate prospect of generating the types of volumes that larger carriers may be able to produce to qualify for volume discounts. Moreover, growth discounts can provide additional economic incentives for these carriers to grow their businesses--essentially stimulating the efficiency-generating behavior that justifies the discount.

ILECs of course would like to offer growth discounts because their competitors are offering such discounts -- e.g., ICG and its "Automatic Volume Discounts". Additionally, growth discounts would allow ILECs to better plan and manage their own infrastructure by factoring in customer-committed additional volumes. Growth discounts effectively presume and pass on to the customer certain increased profitability, reduced cost, and lower risk associated with committed volumes.[75] Thus, such flexibility is reasonable and pro-competitive in the context of Phase 1.

In the NPRM, the Commission tentatively concludes that it should not permit "growth discounts" in Phase 1.[76] The only reason the Commission gives for this conclusion is its concern that because BOC affiliates have existing relationships with end users, the affiliate will grow much more quickly than existing IXCs and other new entrants. The Commission postulates that ILECs could circumvent the nondiscrimination provisions of § 272 of the Act by offering

[75] See Gordon Paper at 38.

[76] NPRM at ¶ 192.

discounts for which only their affiliates would qualify. However, instead of completely denying ILECs the ability to offer such competitive pricing plans, the Commission should carefully review ILEC growth discount plans in order to make sure that ILECs do not discriminate in favor of their affiliates. There is no reason to completely ban these arrangements which can be of benefit to smaller access customers.

Lowering the No-Sharing X-Factor. The Commission has already concluded that the correct productivity offset for the LEC industry is 4%.[77] As Dr. Gordon points out, at Phase 1 there is no need for the additional backstop of sharing.[78] In other words, the "no sharing" X-factor should be lowered from 5.3% to 4%. The sharing imposed on those carriers selecting the correct 4% X-factor not only depresses their earnings, constituting a potential disincentive to investment, but also artificially depresses prices, which discourages investment by competitors. Simply put, at Phase 1, eliminating price cap sharing is a reasoned first step to the eventual elimination of price cap regulation itself.

[77] In the Matter of Price Cap Performance Review for Local Exchange Carriers, CC Docket 94-1, First Report and Order, FCC 95-132 (released April 7, 1995)("LEC Price Cap Performance Review Order") at ¶ 209.

[78] Gordon Paper at 37.

## B. Phase 2: Actual Competition

### 1. The Presence of Actual Competition Should Be the Sole Trigger for Phase 2 Relief.

As with Phase 1, Ameritech generally supports the Commission's proposal for Phase 2 with certain modifications. As Dr. Gordon notes:

> Relief for a company that is already subject to actual competition should not be dependent on the actions of third parties; otherwise, the company will be unable to respond effectively to actual competitive pressures even when the company has done everything in its power to comply with market-development rules.[79]

Therefore, except for the demonstrated presence of competition, the remaining two proposed criteria for Phase 2 qualification should be eliminated. The implementation of both a universal support mechanism implementation and "credible and timely enforcement of pro-competitive rules" are completely outside the control of the ILEC and are not the result of marketplace forces

### 2. The Commission's Proposed Regulatory Reforms Are Appropriate, Coupled with the Elimination of the Price Cap X-Factor.

Price Cap Flexibilities. With the arrival of competition in Phase 2, the need for price cap subbands within price cap baskets disappears.[80] The purpose of these subbands was to ensure that individual services were not cross subsidizing other services within a specific basket. However, with the presence of competition,

---

[79] Id. at 41.

[80] NPRM at ¶ 211.

this concern is no longer valid. There are no incentives for an ILEC to price a competitive service at a level that subsidizes other services when the competition is pricing at a market level.

Similarly, the need for separate price cap baskets is eliminated as well.[81] Again, with competitive presence and virtually no entry barriers, the cross subsidy that separate baskets were designed to prevent is not feasible and becomes only economic suicide. The market, therefore, will provide effective control and separate price cap baskets can be consolidated.[82]

Differential Pricing by Customer Class. In Phase 2, ILECs should be able to offer different prices for access to different classes of end users -- e.g., residential, single-line, business and multi-line business. Such differential pricing would enable ILECs to respond appropriately to competitive alternatives available to access customers.

Ending Mandatory Part 69 Rate Structure. Ameritech agrees with the Commission's conclusion that, at Phase 2, the Commission should eliminate the mandatory rate structures for transport and local switching.[83] Because of the availability of UNEs priced at cost, and the actual presence of competition, market

[81] Id. at ¶ 216.

[82] The Commission proposes not to consolidate the interexchange basket because the services therein "are likely to be subject to substantial competition more quickly..." Id. For reasons articulated in a previous section of these comments, the Commission should remove those services from price cap and tariff regulation completely no later than the time 1+ dialing if available for IXCs for that traffic.

[83] NPRM at ¶ 214.